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TO AMEMBASSY LONDON

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USMISSION EC BRUSSELS

INFO USMISSION OECD PARIS

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TAGS: ETRD, EC

SUBJECT: COUNTERVAILING DUTIES -- EC CASES

REF: DUBLIN 208

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1. ON FEBRUARY 12 OFFICIALS OF ALL 9 EC MEMBER STATE EMBASSIES AND OF COMMISSION DELEGATION HELD INFORMAL LUNCHEON DISCUSSION WITH TREASURY ASSISTANT SECRETARY DAVID MACDONALD AND DEPUTY ASSISTANT SECRETARY PETER SUCHMAN TO REVIEW NEW COUNTERVAILING DUTY LEGISLATION AND PENDING CASES AFFECTING EC. LUNCHEON WAS ARRANGED AT EC INITIATIVE. ATMOSPHERE WAS CORDIAL, VIEWS WERE EXCHANGED IN A STRAIGHTFORWARD MANNER, AND THE EC OFFICIALS WERE ABLE TO BRING CONCERNS TO ATTENTION OF TREASURY.

2. AREAS OF MAJOR CONCERN WERE THE POSSIBLE IDENTIFICATION OF EUROPEAN REGIONAL DEVELOPMENT PROGRAMS AS BOUNTIES OR GRANTS, THE CRITERIA THAT TREASURY WOULD APPLY IN USING ITS NEW DISCRETIONARY AUTHORITY IN COUNTERVAILING DUTY CASES, LACK OF INJURY PROVISION IN U.S. STATUTE,) AND THE U.S. NEGOTIATING POSITION ON SUBSIDIES IN THE UPCOMING MTN.

3. REGIONAL DEVELOPMENT: ALMOST HALF OF THE DISCUSSION

PERIOD WAS DEVOTED TO THE REGIONAL DEVELOPMENT ISSUE. THE EC (ESPECIALLY U.K., IRELAND, AND ITALY) EXPRESSED CONCERN THAT THE TREASURY INVESTIGATION OF FLOAT GLASS CASES WAS AN ASSAULT ON THEIR REGIONAL DEVELOPMENT SCHEMES. EC FELT THAT SUCH SCHEMES WERE NOT EXPORT SUBSIDIES BUT SERVED VITAL AND NON-NEGOTIABLE SOCIAL AND ECONOMIC PURPOSES. TREASURY NOTED THAT EXISTING PRECEDENT FINDING REGIONAL DEVELOPMENT PROGRAMS CONSTITUTED BOUNTY OR GRANT

IS LIMITED BY FACTS OF THAT CASE, AND THAT THIS WOULD SEEM TO BE AN AREA RIPE FOR DISCUSSION IN GENEVA. TREASURY SAW NO LEGAL JUSTIFICATION, HOWEVER, NOT TO PROCEED IN GETTING FACTS IN FLOAT GLASS INVESTIGATION.

4. DISCRETION: EC OFFICIALS WERE ANXIOUS TO LEARN HOW MUCH FLEXIBILITY TREASURY WOULD USE IN APPLYING DISCRETIONARY PROVISION OF STATUTE AND WHAT CRITERIA WOULD BE APPLIED. PARTICULAR INTEREST EXPRESSED IN DISCRETION IN DAIRY, FLOAT GLASS AND CANNED HAMS CASES. TREASURY INDICATED THAT DISCRETION WOULD HAVE TO BE CONSIDERED ON A CASE-BY-CASE BASIS AND THAT CRITERIA WERE THOSE ESTABLISHED OFFICIAL USE

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LISHED BY TRADE ACT AND ITS LEGISLATIVE HISTORY. IN EACH SITUATION, INTERESTS OF U.S. TRADING PARTNERS WOULD BE TAKEN INTO CONSIDERATION TO FULLEST EXTENT POSSIBLE UNDER LAW. NO GENERAL RULES EXISTED GOVERNING ACTIONS THAT TREASURY WOULD REQUIRE OF INDIVIDUAL COUNTRIES TO QUALIFY FOR DISCRETION. NO DECISION ON DISCRETION HAD YET BEEN MADE IN SPECIFIC CASES.

5. U.S. NEGOTIATING POSITION ON SUBSIDIES: EC OFFICIALS WONDERED WHAT USG WANTED ON SUBSIDIES AND TREASURY SUGGESTED STR SHOULD COMMENT. EC PRESSED TREASURY ON QUESTION OF WHETHER U.S. WOULD INSIST ON SUBSIDY AGREEMENT AS COMPENSATION FOR INCLUDING INJURY CLAUSE IN COUNTERVAILING DUTY LAW. FRENCH OFFICIAL WONDERED HOW U.S. COULD AMEND ITS LEGISLATION WITHOUT INCLUDING INJURY PROVISION AND STILL BE IN CONFORMITY WITH GATT. TREASURY REPLIED THAT, WHILE U.S. DID NOT THINK OF SUBSIDY AGREEMENT IN TERMS OF COMPENSATION, WE WERE INTERESTED IN REACHING AGREEMENT THAT WAS SELF BALANCING. AS A PRACTICAL MATTER, AN INJURY PROVISION WOULD NOT BE ACCEPTABLE TO U.S. CONGRESS WITHOUT AGREEMENT ON SUBSIDIES. TREASURY THOUGHT DEBATE OVER WHETHER U.S. IS IN CONFORMITY WITH GATT NOT LIKELY TO BE RESOLVED, AND LESS PRODUCTIVE THAN EFFORT TO NEGOTIATE AGREEMENT.

6. BELGIAN OFFICIAL COMMENTED THAT U.S. SEEMED TO BE MAKING BROAD ATTACK ON EC POLICIES ON SEVERAL FRONTS INCLUDING TAX POLICIES, AGRICULTURAL POLICIES, AND

REGIONAL DEVELOPMENT POLICIES. HE SUGGESTED THAT PROBLEM BELONGED IN POLITICAL ARENA, AND THAT U.S. SHOULD CONSIDER AMENDING LEGISLATION TO BE MORE RESPONSIVE TO POLITICAL AND FOREIGN POLICY INTERESTS. TREASURY NOTED THAT DURING HOUSE AND SENATE HEARINGS ON TRADE ACT USG WAS TIME AND AGAIN ACCUSED OF SACRIFICING U.S. ECONOMIC INTERESTS FOR ACHIEVEMENT OF POLITICAL OBJECTIVES AND THAT ARGUMENT FOR LEGISLATIVE CHANGE TO MEET POLITICAL INTERESTS WOULD NOT BE WELL RECEIVED AT THIS TIME. A MORE PRODUCTIVE APPROACH WOULD BE TO FOCUS ON MUTUALLY ACCEPTABLE ECONOMIC SOLUTIONS.

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7. DISCUSSION, WHICH WAS MOSTLY GENERAL WITH LITTLE EXCHANGE ON SPECIFIC CASES, SERVED TO REVEAL SERIOUS EC CONCERNS ABOUT POLICY IMPLICATIONS OF CASES AND EC DESIRE TO SEE DISCRETIONARY AUTHORITY USED. THIS REPORT PROVIDED FOR POSTS INFORMATION ONLY. POSTS NEED NOT TAKE INITIATIVE AT THIS TIME BUT ARE REQUESTED TO REPORT FURTHER INDICATIONS OF EC VIEWS AS OBTAINED. INGERSOLL

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